

Supreme Court of Pennsylvania

Court of Common Pleas

Civil Cover Sheet

Lackawanna

MAURICE B. KELLY
LACKAWANNA COUNTY

For Prothonotary Use Only:

Docket No:

18 CY
4535

JUDICIAL STAMP

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Commencement of Action:

- ☒ Complaint ☐ Writ of Summons ☐ Petition
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:
Katherine Whited

Lead Defendant's Name:
The New Cafe at Greystone Gardens; Dominic Saadi

Are money damages requested? ☒ Yes ☐ No

Dollar Amount Requested: ☐ within arbitration limits
(check one) ☒ outside arbitration limits

Is this a Class Action Suit? ☐ Yes ☒ No

Is this an MDJ Appeal? ☐ Yes ☐ No

Name of Plaintiff/Appellant's Attorney: Cynthia L. Pollick

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- ☐ Intentional
☐ Malicious Prosecution
☐ Motor Vehicle
☐ Nuisance
☐ Premises Liability
☐ Product Liability (does not include mass tort)
☐ Slander/Libel/ Defamation
☐ Other:

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection: Credit Card
☐ Debt Collection: Other
☐ Employment Dispute:
Discrimination
☒ Employment Dispute: Other
Violation of FLSA, WPCL, etc.
☐ Other:

CIVIL APPEALS

- Administrative Agencies
☐ Board of Assessment
☐ Board of Elections
☐ Dept. of Transportation
☐ Statutory Appeal: Other

- ☐ Zoning Board
☐ Other:

MASS TORT

- ☐ Asbestos
☐ Tobacco
☐ Toxic Tort - DES
☐ Toxic Tort - Implant
☐ Toxic Waste
☐ Other:

REAL PROPERTY

- ☐ Ejectment
☐ Eminent Domain/Condemnation
☐ Ground Rent
☐ Landlord/Tenant Dispute
☐ Mortgage Foreclosure: Residential
☐ Mortgage Foreclosure: Commercial
☐ Partition
☐ Quiet Title
☐ Other:

MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration
☐ Declaratory Judgment
☐ Mandamus
☐ Non-Domestic Relations
Restraining Order
☐ Quo Warranto
☐ Replevin
☐ Other:

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional:

The Employment Law Firm
Cynthia L. Pollick, LLM
I.D. No.: 83826
363 Laurel Street
Pittston, PA 18640
(570) 654-9675

Attorney for Plaintiff

KATHERINE WHITED

Plaintiff

-v-

THE NEW CAFE AT GREYSTONE
GARDENS and DOMINIC SAADI

Defendants

IN THE COMMON PLEAS OF
LACKAWANNA COUNTY

CIVIL ACTION - LAW

JURY TRIAL DEMAND

DOCKET NO:

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed against you by the Court without you, and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR
LAWYER AT ONCE. IF YOU DO NOT HAVE A
LAWYER OR CANNOT AFFORD ONE, GO TO
OR TELEPHONE THE OFFICE SET FORTH
BELOW TO FIND OUT WHERE YOU CAN
GET LEGAL HELP. NORTHERN PA LEGAL
SERVICES

507 Linden Street
Suite 300
Scranton, PA 18503
(570) 342-0184

Pennsylvania Lawyer Referral
Services

Lackawanna Bar Association
338 N. Washington Avenue
Third Floor

Scranton, PA 18503

(570) 969-9161

(570) 969-9170 - Business Fax

KATHERINE WHITED

Plaintiff

-v-

THE NEW CAFE AT GREYSTONE
GARDENS and DOMINIC SAADI

Defendants

IN THE COMMON PLEAS OF
LACKAWANNA COUNTY

CIVIL ACTION - LAW

JURY TRIAL DEMANDED

DOCKET NO:

COMPLAINT

MAURI B. KELLY
LACKAWANNA COUNTY
2018 AUG 21 PM 1:28
CLERKS OF JUDICIAL
RECORDS CIVIL DIVISION
8215

NOW comes Plaintiff, KATHERINE WHITED, by her attorney, Cynthia L. Pollick, Esquire, and files the following Complaint against Defendants and aver as follows:

PARTIES

1. Plaintiff, KATHERINE WHITED, was employed as a server for Defendant The New Café at Greystone Gardens. She began her employment on or about 4/23/2017. Plaintiff was required to pay the owner DOMINIC SAADI 20% of Plaintiff's tips earned during each shift worked.

2. Defendant, THE NEW CAFÉ AT GREYSTONE GARDENS, is located 829 Old State Road, Clarks Summit, Pennsylvania.

3. Defendant, DOMINIC SAADI, is the owner of THE NEW CAFE AT GREYSTONE GARDENS, which is located at 829 Old State Road, Clarks Summit, Pennsylvania.

JURISDICTION

4. Jurisdiction lies pursuant to the Fair Labor Standards Act (FLSA), Pennsylvania Wage Payment and Collection Act (WPCL) and Pennsylvania Minimum Wage Act (MWA).

5. The unlawful employment practices described in this Complaint have been committed in Lackawanna County, and the employment records relevant to those conditions and practices are, on the information and belief of Plaintiff, maintained and administered at the offices of the Defendants in Lackawanna County and the Defendants do business in Lackawanna County.

6. At all relevant times herein, Defendants have and continue to be an employer within the meaning of the FLSA, WPCL, and MWA.

7. Under the FLSA, WPCL, and MWA, Defendant DOMINIC SAADI, as owner, could not take tips earned from servers.

8. "Every court that has considered the issue has unequivocally held that the FLSA expressly prohibits employers from participating in employee tip pools." *Gionfriddo v. Jason Zink, LLC*, 769 F. Supp. 2d 880, 893 (D. Md. 2011).

9. At all times hereinto, Defendants were willful in each instance that Plaintiff was required to pay the Defendants 20% of her earned tips.

10. At all times hereinto, Defendants knew or should have known that by law they could not take tips earned from servers.

COUNT I
VIOLATION OF FAIR LABOR STANDARDS ACT (FLSA);
PENNSYLVANIA WAGE PAYMENT AND COLLECTION LAW (WPCL); and
PENNSYLVANIA MINIMUM WAGE ACT (MWA)
PLAINTIFFS V. DEFENDANTS

11. Plaintiff hereby incorporates by reference paragraphs one (1) through ten (10) as if set forth herein at length.

12. Plaintiff was paid \$3.00 plus tips.

13. Plaintiff normally worked part-time four days a week.

14. Starting in or around 4/23/2017, Plaintiff was required to pay the Defendants 20% of her tips.

15. Each shift worked Plaintiff was required by Defendants to pay her employer 20% of all tips earned.

16. Defendants never provided Plaintiff notice, as required by law, that they would be claiming a tip credit.

17. Defendants' records would reflect the tip amount paid by Plaintiff each shift to her employer.

18. Plaintiff's estimate of the tips owed to Plaintiff per week are as follows:

4/23/2017	40.00
4/30/2017	40.00
5/6/2017	28.00
5/13/2017	36.00
5/20/2017	12.00
5/27/2017	45.00
6/3/2017	80.00
6/10/2017	60.00
6/17/2017	28.00
6/24/2017	64.00
7/5/2017	40.00
7/22/2017	50.00
7/29/2017	45.00
8/5/2017	48.00
8/12/2017	24.00
8/19/2017	50.00
9/2/2017	50.00
9/16/2017	60.00

9/23/2017	80.00
9/30/2017	85.00
10/7/2017	64.00
10/14/2017	60.00
10/21/2017	60.00
10/28/2017	80.00
11/4/2017	50.00
11/11/2017	64.00
11/18/2017	60.00
11/25/2017	60.00
12/2/2017	80.00

19. Plaintiff continued to work in 2018, and it is estimated she paid her employer approximately \$50 each week until 8/15/2018 to work.

WHEREFORE, Plaintiff seeks all remedies available pursuant at law, including but not limited to payment of earned tips, payment of minimum wage, liquated damages, penalty, attorney fees and costs, pre- and post-interest, delay damages, and other such legal and equitable relief as allowable at law.

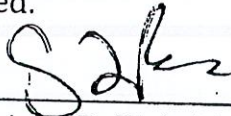
COUNT II
RETALIATION FOR PROTESTING PAY TO WORK REQUIREMENT
VIOLATION OF FAIR LABOR STANDARDS ACT (FLSA);
PENNSYLVANIA WAGE PAYMENT AND COLLECTION LAW (WPCL); and
PENNSYLVANIA MINIMUM WAGE ACT (MWA)
PLAINTIFFS V. DEFENDANTS

20. Plaintiff hereby incorporates by reference paragraphs one (1) through nineteen (19) as if set forth herein at length.

21. Plaintiff believes that Defendants learned that Plaintiff was protesting the "pay to work" requirement that she give the owner 20% of her tips and in direct retaliation Defendants fired Plaintiff on 8/15/2018.

WHEREFORE, Plaintiff seeks all remedies available pursuant at law, including but not limited to payment of earned tips, payment of minimum wage, liquated damages, penalty, attorney fees and costs, pre- and post-interest, delay damages, emotional distress, and other such legal and equitable relief as allowable at law.

On all counts a jury trial is demanded.

By: 
Cynthia L. Pollick, J.D., LLM.
Pa. I.D. No.: 83826
363 Laurel Street
Pittston, PA 18640
(570) 654-9675
pollick@lawyer.com

VERIFICATION

I, KATHERINE WHITED, HAVE REVIEWED THE FOREGOING "COMPLAINT", AND I HEREBY VERIFY THAT THE FACTS SET FORTH THEREIN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF. I MAKE THIS VERIFICATION SUBJECT TO PENALTIES UNDER 18 PA. C.S. § 4904, RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES.

8/17/18


KATHERINE WHITED